

*IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION AT KNOXVILLE*

IN RE:

David A. Ramey

Case No. **3:18-BK-33725-MPP**
Chapter 7

Debtor.

RESPONSE IN OPPOSITION TO DEBTOR'S MOTION FOR A PROTECTIVE ORDER

Comes Michael H. Fitzpatrick, Trustee, by and through counsel, files this response in opposition to the Debtor's previously filed Motion for a Protective Order [Doc. 38].

1. The Debtor filed a voluntary Chapter 7 petition on December 7, 2018. Michael Fitzpatrick was appointed as Chapter 7 trustee, and continues to serve in that capacity.

2. The trustee's investigation revealed that the debtor's father passed away on December 26, 2018 and the debtor inherited an unknown amount of assets as a result. It is the trustee's contention that the debtor's inheritance is an estate asset pursuant to 11 U.S.C. 541(a)(5).

3. The trustee's investigation into the exact amount of the inheritance is ongoing, and the matter is being administered by the Probate Court of Loudon County, Tennessee.

4. While the debtor claims in his motion that only \$4,832.16 in claims have been filed, the claims bar date is May 15, 2019.

5. The debtor has previously scheduled \$57,256.00 in non-priority unsecured debt [Doc. 1].

6. The debtor previously testified both at his 341 meeting and at a deposition that occurred on March 14, 2019 that he obtained \$18,000.00 from his deceased father's bank accounts. *See Attached Exhibit A, Deposition of David Ramey*, P. 12-13, L. 13-25 & 1-15.

7. The debtor spent the money on a car and some bills, and has \$4,000.00 remaining.
Id.

8. The trustee has demanded turnover of the remaining \$4,000.00 but the debtor has refused to turn over the asset. *See Attached Exhibit B, Demand Letter of March 14, 2019.*

9. The debtor has also admitted that he took possession of his deceased father's 2012 Dodge Ram. *See Attached Exhibit A, P. 10 L. 15-23.*

10. The debtor has also admitted to rekeying his father's house and changing the alarm code. *See Attached Exhibit A, P. 19 – 20, L. 10-19 & 2-9¹.*

11. The debtor also placed some items of his deceased father in a commercial storage unit in Vonore, Tennessee. *Id.*, P. 47, L. 9-18.

12. The debtor has also admitted to trying sell some of the inheritance through Facebook. *Id.*, P. 49-50, L. 24-25 & L. 1-18, & *Exhibit C, Copies of Debtor's Facebook Page.*

13. He also gave away a racing engine to a friend. *See Attached Exhibit A, P. 108-109, L. 24-25 & L. 1-10.*

14. The trustee has instructed the debtor at his 341 meeting not to dispose of the \$4,000.00 cash or any other inheritance assets.

15. As described above, the trustee believes the debtor has engaged in behavior of transferring, removing, or concealing property of the estate with the intent hinder, delay, or defraud the trustee's efforts to secure property of the estate.

16. The debtor's motion for a protective order only requests an order "preventing the chapter 7 trustee from selling any of the debtor's assets without approval of the Court."

17. Such approval is already required by 11 U.S.C. § 363. The requested relief is therefore superfluous and should be denied.

18. Due to the debtor's admitted actions to transferring, removing, or concealing assets of the estate and the fact that the debtor's motion is completely redundant and does not seek any relief that does not already exist in the bankruptcy code, the trustee respectfully requests that the Court deny the debtor's motion for a protective order.

¹ The trustee has redacted the alarm code as this is a public filing.

Respectfully submitted,

/s/ Ryan E. Jarrard

Ryan E. Jarrard, Esq.

BPR No. 024525

Attorney for Michael H. Fitzpatrick, Trustee

Quist, Fitzpatrick & Jarrard, PLLC

2121 First Tennessee Plaza

800 South Gay Street

Knoxville, TN 37929-9711

(865) 524-1873 ext. 232

RFJ@QCFLaw.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Response have been served upon the indicated parties by placing a copy thereof in the U.S. Mail, first class postage prepaid, via email or ECF this March 22, 2019:

Office of the U.S. Trustee
VIA ECF

Elliot J. Schuchardt
VIA ECF

All Parties in Interest on the attached list via US Mail

/s/ Ryan E. Jarrard

ATTORNEY